



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,600	12/21/2004	Pascal Lacan	ESSR:085US/10408500	9609

32425 7590 12/05/2008
FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVE.
SUITE 2400
AUSTIN, TX 78701

EXAMINER

SPEER, TIMOTHY M

ART UNIT	PAPER NUMBER
----------	--------------

1794

MAIL DATE	DELIVERY MODE
-----------	---------------

12/05/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/501,600	Applicant(s) LACAN ET AL.	
	Examiner Timothy M. Speer	Art Unit 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 26-48 and 57-81 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 26,28-45 and 78-81 is/are allowed.
- 6) ☒ Claim(s) 27,46-48,57-60 and 64-77 is/are rejected.
- 7) ☒ Claim(s) 61-63 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>01/29/08, 01/04/08</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The Election/Restriction Requirement dated 06/04/08 is hereby withdrawn in favor of the preset non-final Office Action.

Information Disclosure Statement

2. The information disclosure statements (IDS) submitted on 01/29/08 and 01/04/08 have been considered to the extent indicated on the attached Form PTO-1449s. Regarding the 01/29/08 IDS, reference crossed through were not considered, since they were not in the English language and, thus, not in compliance with rule 1.98.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 27, 76, and 77 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 27, from which claims 76 and 77 depend, recites that one or more depositions are performed. It is not clear, however, whether the deposition is performed to the first or second side of the lens. Accordingly, the scope of these claims cannot be determined and these claims are considered to be indefinite.

5. Claims 46, 47, 57-60, 64, and 65 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. These claims merely set forth physical characteristics desired in the article and do not set forth specific compositions which would meet such characteristics. Accordingly, these claims are considered to be indefinite, since these claims cover any

Art Unit: 1794

conceivable combination of ingredients either presently existing or which might be discovered in the future and which would impart the desired characteristics. See *Ex parte Slob*, 157 USPQ 172 (1967).

6. Claims 67-69 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. These claims each depend from dependent claim 67 and, accordingly, are incomplete, rendering the claims indefinite.

7. Claims, 66 and 72 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "polytetrafluoroethylene-based layer" is unclear, rendering this claim indefinite. The addition of the modifier "based" to an otherwise definite phrase extends the scope of the phrase such as to render the phrase indefinite.

8. Claims 73-75 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. These claims each depend from dependent claim 73 and, accordingly, are incomplete, rendering the claims indefinite.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 1794

10. Claims 46-48, 64, 65, 70 and 71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lacan (US 20030049370).

11. Lacan teaches a lens comprising a hydrophobic and/or oleophobic coating wherein the coating imparts a surface energy of less than 14 mJ/M^2 to the lens (see paragraph [0036], for instance). Lacan further teaches that a temporary coating is applied to the coating (abstract, for instance). Such coatings may comprise, for instance, metal fluorides and oxides (see paragraphs [0051] and [0052], for example). Lacan fails to teach that the protective layer is a multilayer. However, to apply more than one layer, as taught by Lacan, would have been obvious to one having ordinary skill in the art in order to impart additional protection to the underlying substrate than afforded by a single layer. The repetition of a part, plus its function, is not considered to be inventive.

Allowable Subject Matter

12. Claims 26, 28-45, and 78-81 are allowable over the prior art of record.

13. Claims 61-63 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy M. Speer whose telephone number is (571)272-8385. The examiner can normally be reached on M-F.

Art Unit: 1794

15. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena L. Dye can be reached at 571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

16. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Timothy M. Speer/
Primary Examiner
Art Unit 1794